

In re Patent Application of:  
SMITH ET AL  
Serial No. 10/760,996  
Filed: 01/20/2004

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REMARKS

Claims 1-29 have been previously submitted. Of these claims, Claims 1-14, 19, 20, 25 and 26 have been cancelled, leaving Claims 15-18, 21-24 and 27-29 currently pending.

In response to the Office Communication of February 9, 2006, replacement Claims 13-29 submitted in the amendment of November 21, 2005, have been amended in an effort to comply with the provisions of MPEP Section 806.05 (C)(II), and thereby remove the requirement for restriction set forth in the outstanding Office Action of February 9, 2006. Reconsideration of this application in light of the foregoing amendments, the following remarks, as well as the amendments and remarks of the amendment filed November 21, 2005, is respectfully requested.

The provisions of MPEP Section 806.05 (c)(II), upon which the requirement for restriction set forth in the Patent Office Communication of February 9, 2006, is based, states as follows:

*"If the combination claims are amended after a restriction requirement such that each combination, as claimed, requires all the limitations of the subcombination as claimed, i.e., if the evidence claim AB<sub>hr</sub> is deleted or amended to require B<sub>sp</sub>, the restriction requirement between the combination and subcombination should not be maintained." (Emphasis added)*

As will be appreciated from the above amendments each of the currently amended independent Claims 15, 21 and 25, the combination set forth therein requires the specifics of the subcombination of original Claims 1-12.

In particular, amended combination Claim 15, upon which Claims 16-18 depend, requires the specifics of original

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subcombination Claim 1. Combination Claim 16 requires the specifics of original subcombination Claim 2, combination Claim 17 requires the specifics of original subcombination Claim 3 and combination Claim 18 requires the specifics of original subcombination Claim 4.

Similarly, amended independent combination Claim 21, upon which Claims 22-24 depend, requires the specifics of original subcombination Claim 1. Combination Claim 22 requires the specifics the original subcombination Claim 2, combination Claim 23 requires the specifics of original subcombination Claim 3 and combination Claim 24 requires the specifics of original subcombination Claim 4.

Likewise, amended independent combination Claim 27, upon which Claims 28 and 29 depend, requires the specifics of original subcombination Claim 1. Combination Claim 28 requires the specifics of original subcombination Claim 2 and combination Claim 29 requires the specifics of original subcombination Claim 3 and 4.

Those combination claims of the amendment filed November 21, 2005, which did not require the specifics of original subcombination Claims 1-12, namely combination Claims 13, 14, 19, 20, 25 and 26, have been cancelled without prejudice to applicants' right to file a separate divisional application directed to the subject matter embodied therein, as being directed to a separate and distinct invention as delineated in the outstanding Office Action of February 9, 2006.

Since combination Claims 15-18, 21-24 and 27-29, as currently amended, require specifics of originally filed subcombination Claims 1-12, Claims 15-18, 21-24 and 27-29 may be characterized as being directed to a combination AB<sub>sp</sub>, in

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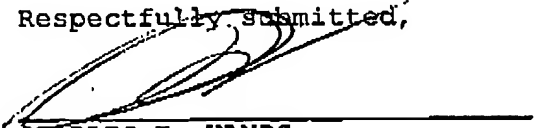
accordance with MPEP Section 806.05 (c)(II). Since there is no evidence claim directed to the broad combination AB<sub>2</sub>, as such claims (i.e., Claims 13, 14, 19, 20, 25 and 26) have been cancelled by way of the present amendment, withdrawal of the requirement for restriction in the Office Action of February 9, 2006, and favorable action upon Claims 15-18, 21-24 and 27-29 are respectfully requested.

Favorable reconsideration of this application in light of the foregoing amendments and remarks, as well as those of the amendment of November 21, 2005, are respectfully requested.

Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 01-0484 and please credit any excess fees to such deposit account.

Respectfully Submitted,



CHARLES E. WANDS  
Reg. No. 25,649

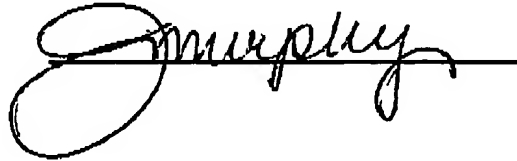
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CERTIFICATE OF FACSIMILE TRANSMISSION

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, this 23 day of February 2006.

A handwritten signature in cursive script, appearing to read "J. Murphy", is written over a horizontal line.